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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,969	04/25/2001	Larry N. McMahan	10010480-1	1256

7590 07/19/2004

HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER

REFAI, RAMSEY

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/842,969

Applicant(s)

MCMAHAN ET AL.

Examiner

Ramsey M Refai

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/20/01
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. Claims 1-20 are presented for examination.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-8, 11-17, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Karger et al (hereinafter Karger (U.S. Patent Application No. 10/417,427.))
4. As per claim 1, Karger teach a method for allocating computer resources for use by a program, comprising the steps of:  
  
allocating a first resource (paragraph [0063]; Doc1); and  
  
allocating a second resource having a shortest distance to the first resource (paragraph [0063]; server A);  
  
wherein the distance between the resources is stored as firmware (paragraph [0032]  
  
portable to various operating systems running the program [paragraphs [0107-0109]]).

5. As per claim 2, Karger teach a method where in the distance between the resources is selected from a group consisting of: a distance measured from one resource to another resource and a distance measured relative to a distance used as a reference (paragraph [0107]).
6. As per claim 3, Karger teach a method wherein the distance between the resources is measured in time units (paragraph [0108-0109]).
7. As per claim 4, Karger teach a method wherein the distance between the resources (paragraph [0107]) is provided to an operating system running the program upon power-up of a system running the operating system (paragraph [0032]).
8. As per claim 5, Karger teach a method wherein the distance between the resources is measured by the distance between nodes containing the resources (paragraph [0107]).
9. As per claim 6, Karger teach a method wherein the distance between the resources is provided by the time taken to communicate from one resource to another resource or the time taken to transfer data from one resource to another resource (paragraph [0107]).
10. As per claim 7, Karger teach a method wherein the resources reside in a plurality of nodes each of which includes at least one resource being either an I/O device, a memory device, or a processor paragraph [0116]).

11. As per claim 8, Karger teach a method wherein resources in a node are on a same bus or share a point-to-point link (paragraph [[0095]]).

12. As per claims 11-17, and 20, they contain similar limitations as claims 1-8, therefore are rejected under the same rationale.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 9,10, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karger et al (U.S. Patent Application No. 10/417,427) in view of "Official Notice".

15. As per claim 9, Karger show a method wherein the first resource is associated with a storage device storing the program or storing data associated with the program (paragraph [0032]).

16. However, Karger fail to show a method for wherein the first resource is an input device.

"Official Notice" is taken that both the concept and advantages of providing an input device is well known and expected in the art. It would have been obvious to one of the ordinary skill in the art to include an input device associated with the storage device with Karger because it

would provide the client ability, when using a keyboard, to type a program, which can then be stored in a storing device storing the program and provide interactivity between a user and a client (i.e. computer).

17. As per claim 10, Karger show a method comprising the step of allocating a second resource having a shortest distance to the first resource (paragraph [0063]; server A) and more than one resources (Fig. 1B).
18. However, Karger fail to show a method comprising the step of allocating a third resource having a shortest distance to the first resource or second resource. "Official Notice" is taken that both the concept and advantages of allocating a third resource is well known an expected in the art. It would have been obvious to one of the ordinary skill in the art to include allocating a third resource with Karger because it would provide for more resources and better access time when the 3<sup>rd</sup> resource is closer.
19. As per claims 18 and 19, they contain similar limitations as claims 9 and 10, therefore are rejected under the same rationale.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Andrews et al (U.S. Patent Application No. 09/726,192), Rune (U.S. Patent No. 6,304,913), Richardson et al (U.S. Patent No. 6,249,802) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey M

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Refai whose telephone number is (703) 605-4361. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramsey M Refai  
Examiner  
Art Unit 2154

RMR  
June 29, 2004

  
JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100